



Australian Government

Refugee Review Tribunal

Country Advice

China

China – CHN37198 – DFAT – Family Planning Fujian

14 September 2010

1. According to Article 10 of *The Population and Family Planning Regulations of Fujian Province 2002*, rural couples can request permission to have a second child if their first child is a daughter. Article 13 of the Regulations states that there must be a time span of four years between two children. If the couple are rural, the first child is a daughter and there is a 4 year plus gap between the first and second child, is it possible that a social compensation fee would not be imposed for the second child upon return to China?

The Department of Foreign Affairs and Trade (DFAT) was contacted in regard to this matter on 16 August 2010.¹ On 19 August 2010, DFAT sought clarification in relation to questions one and two of the request. Questions one and two of the request were redrafted and emailed to DFAT.² DFAT replied on 13 September 2010. The information is as follows:

According to the Population and Family Planning Regulation of Fujian Province 2002, a family planning committee may consider waiving a social compensation fee for a second child if the couple is from a rural area; there is a four year gap between the first and second child; and their first child is a daughter.³

Article 10 of *The Population and Family Planning Regulations of Fujian Province 2002* states that couples must request permission prior to having a second child. Would the couple have to pay a social compensation fee for the second daughter upon return to China on the basis of not having sought prior permission?

DFAT was contacted in regard to this matter on 16 August 2010.⁴ On 19 August 2010, DFAT replied and sought clarification in relation to questions one and two of the request. Questions

¹ RRT Country Advice Service 2010, Email to DFAT 'RRT Country Information Request CHN37198', 16 August - Attachment 1

² RRT Country Advice Service 2010, Email to DFAT 'RE: RRT Country Information Request CHN37198', 19 August - Attachment 2.

³ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September - Attachment 3.

⁴ RRT Country Advice Service 2010, Email to DFAT 'RRT Country Information Request CHN37198', 16 August - Attachment 1

one and two of the request were redrafted and emailed to DFAT.⁵ DFAT replied on 13 September 2010. The information is as follows:

According to the Population and Family Planning Regulation of Fujian Province 2002, parents “should” seek prior permission before the birth of their child.

Post is unable to comment if this requirement (that a couple “should” obtain prior approval) is overridden by the considerations noted above (from a rural area; four year gap between children; first child is a daughter).⁶

2. If a couple are overseas must they seek prior approval to have a second child?

DFAT was contacted in regard to this matter on 16 August 2010.⁷ DFAT replied on 13 September 2010. The information is as follows:

Post did not locate a specific regulation stating an overseas couple were required to obtain prior approval to have their baby outside of China. Parents are advised to consult the closest Chinese Embassy or Consulate for relevant documentation and advice. This documentation may be required when the family returns to China for household registration.⁸

3. Previous DFAT advice states that provincial family planning fines apply to Chinese nationals who have children overseas and then return to Fujian. Previous advice indicates that there are two circumstances in which couples returning to Fujian are exempt from family planning fees for an unauthorised second child, couples who have travelled overseas for study and Overseas students. Can you confirm that this advice is still accurate for Fujian province and China more generally?

DFAT was contacted in regard to this matter on 16 August 2010.⁹ DFAT replied on 13 September 2010. The information is as follows:

According to Fujian government websites there are a few circumstances in which couples returning to Fujian are exempt from the social compensation fees for an unauthorised second child; for example if both the mother and father of this child are overseas Chinese students; and they have stayed in the country in which their second child was born for more than one year. This policy may be applied to most areas in China, though specific advice should be sought on a case by case basis.¹⁰

4. Are social compensation fees strictly implemented in relation to families returning to Fujian with additional children born overseas?

DFAT was contacted in regard to this matter on 16 August 2010.¹¹ DFAT replied on 13 September 2010. The information is as follows:

⁵ RRT Country Advice Service 2010, Email to DFAT ‘RE: RRT Country Information Request CHN37198’, 19 August - Attachment 2.

⁶ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September - Attachment 3.

⁷ RRT Country Advice Service 2010, Email to DFAT ‘RRT Country Information Request CHN37198’, 16 August - Attachment 1

⁸ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September - Attachment 3.

⁹ RRT Country Advice Service 2010, Email to DFAT ‘RRT Country Information Request CHN37198’, 16 August - Attachment 1

¹⁰ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September - Attachment 3.

¹¹ RRT Country Advice Service 2010, Email to DFAT ‘RRT Country Information Request CHN37198’, 16 August - Attachment 1

According to provincial government regulations, social compensation fees are strictly implemented in relation to families returning to Fujian with additional children born overseas, unless waived by relevant authorities.¹²

Attachments

1. RRT Country Advice Service 2010, Email to DFAT 'RRT Country Information Request CHN37198', 16 August.
2. RRT Country Advice Service 2010, Email to DFAT 'RE: RRT Country Information Request IDN36618', 19 May.
3. Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September.

¹² Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1196 – China: RRT Information Request: CHN37198*, 13 September